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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 JOHN G. HEADRICK,

11 Petitioner,

12 v.

13 RICHARD R. SCOTT,

14 Respondent.

CASE NO. 3:19-cv-05725-BHS-JRC

ORDER FOR SUPPLEMENTAL  
BRIEFING

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16 The District Court has referred this petition for a writ of habeas corpus to United States  
17 Magistrate Judge J. Richard Creatura. Petitioner John G. Headrick filed the petition pursuant to  
18 28 U.S.C. § 2241. Before the Court is respondent's response arguing in relevant part that  
19 petitioner has failed to properly exhaust his state court remedies before filing this petition. Dkt.  
20 18.

21 "[A] state prisoner must normally exhaust available state judicial remedies before a  
22 federal court will entertain his petition for habeas corpus." *Picard v. Connor*, 404 U.S. 270, 275  
23 (1971). Petitioner's claims will be considered exhausted only after "the state courts [have been  
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1 afforded] a meaningful opportunity to consider allegations of legal error without interference  
2 from the federal judiciary.” *Vasquez v. Hillery*, 474 U.S. 254, 257 (1986). “[S]tate prisoners must  
3 give the state courts one full opportunity to resolve any constitutional issues by invoking one  
4 complete round of the State’s established appellate review.” *O’Sullivan v. Boerckel*, 526 U.S.  
5 838, 845 (1999). Although there is no exhaustion requirement mandated by 28 U.S.C. §  
6 2241(c)(3), courts have held exhaustion is necessary as a matter of comity unless special  
7 circumstances warrant federal intervention prior to a state criminal trial. *Carden v. Montana*, 626  
8 F.2d 82, 83-84 (9th Cir. 1980); *see Younger v. Harris*, 401 U.S. 37 (1971).

9 In his petition, traverse, and response to the Court’s order to show cause, petitioner  
10 alleges that he has been through one complete round of the state’s established appellate process.  
11 Dkt. 11 at 4-5; Dkt. 12 at 6-7; Dkt. 19 at 1-3. Petitioner first alleges that he previously filed a  
12 personal restraint petition in June 2017, which was dismissed. Dkt. 11 at 4; Dkt. 12 at 7. Next,  
13 petitioner alleges that he filed a motion to dismiss for lack of jurisdiction in state court. Dkt. 11  
14 at 5-6; Dkt. 12 at 8, 23-33. Petitioner alleges that the state court failed to address the motion. *Id.*  
15 Petitioner alleges that he filed another petition on August 14, 2019, again challenging the state  
16 court’s jurisdiction. Dkt. 12 at 8-9, 34-49. Petitioner refers, in part, to exhibits filed in a prior  
17 case because he is currently unable to obtain copies of his prior petitions and filings. *See* Dkt. 12  
18 at 6-9 (citing *State of Washington v. Headrick*, 19-cv-5015-BHS-DWC, Dkt. 2).

19 Here, respondent contends that petitioner has failed to properly exhaust his state court  
20 remedies as to any of his habeas grounds, and that the petition should be dismissed without  
21 prejudice. Dkt. 18. Respondent maintains that petitioner “has not previously argued lack of  
22 jurisdiction or double jeopardy on appeal. Consequently, [petitioner] has never presented his  
23 current claims to the Court of Appeals under a personal restraint petition or the Washington  
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1 Supreme Court as federal claims.” Dkt. 18 at 4. Respondent’s response does not address  
2 petitioner’s arguments that he has previously raised his claims in state court, and these filings  
3 were not included in the state court record. *See* Dkt. 18.

4 At this time, the Court is not yet able to determine whether petitioner has exhausted his  
5 state remedies or whether there are no state remedies available. *Stack v. Boyle*, 342 U.S. 1, 6–7  
6 (1951) (“the District Court should withhold relief in this collateral habeas corpus action where an  
7 adequate remedy available in the criminal proceeding has not been exhausted); *Williams v. Los*  
8 *Angeles Superior Court*, 2014 WL 2533804, \*4 (C.D. Cal. June 4, 2014) (finding petitioner  
9 failed to exhaust his remedies and was not entitled to relief under § 2241 where he did not seek  
10 any relief in the state court of appeals or state supreme court). As such, the Court requests a  
11 supplemental response addressing petitioner’s prior personal restraint petitions and related state  
12 court pleadings challenging the state court’s jurisdiction and double jeopardy. Respondent should  
13 also address exhaustion as it relates to § 2241 petitions and whether any special circumstances  
14 exist which would warrant federal intervention. *See Carden*, 626 F.2d at 83-84.

15 Therefore, it is ORDERED:

16 1) Respondent is ordered to file a supplemental response on or before March 13, 2020.

17 Respondent should provide additional relevant state court records for consideration  
18 with his supplemental response.

19 2) Petitioner may file a supplemental traverse to respondent’s supplemental response by  
20 March 27, 2020. Petitioner may only address the new arguments raised by  
21 respondent.

22 3) Respondent may file a reply to the supplemental traverse on or before April 3, 2020.  
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1 The Clerk is directed to re-note this habeas petition for the Court's consideration on April  
2 3, 2020.

3 Dated this 5th day of February, 2020.

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7 J. Richard Creatura  
8 United States Magistrate Judge  
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